

S E C O N D D A Y

Wednesday, 19th December, 1945.

(At 1030 hours the Court re-assembles, pursuant to adjournment,
the same President and Members being present.)
(The Accused are again brought before the Court.)

INGE LOBER is called in, and, having been duly sworn, is examined
by Major TAYLEUR through the interpreter as follows :-

- Q Is your name Inge Lober ? A. Yes.
- Q Do you live at 56 Wickenburgstrasse, Essen-West ? A. Yes.
- Q How old are you ? A. 17.
- Q Do you remember the morning of the 13th December last year ? A. Yes.
- Q Were you in your house then ? A. Yes.
- Q Is your house close to the Wickenburg bridge ? A. Yes.
- Q Did something on the road attract your attention ? A. On which road ?
- Q The road leading to the bridge ? A. Yes, I saw everything on that morning.
- Q Will you tell the Court what you did see ? A. After a heavy attack on Essen, in the morning at about 10 o'clock my mother was busy carrying the broken furniture and the ruins from our house, and then I noticed a large crowd in the street, a crowd following three Allied airmen.
- Q Who was guarding the airmen ? A. Three German soldiers were guarding them.
- Q What happened ? A. The soldiers were driven to the middle of the bridge and then ----
- THE LEGAL MEMBER: When you say "soldiers" do you mean the German soldiers or who ? A. I mean the Allied airmen.
- MAJOR TAYLEUR: How far was the crowd from the bridge when you first saw it ?
A. They were just passing our house.
- Q How far is your house from the bridge ? A. Perhaps about 50 metres.
- Q Were there a lot of civilians there too ? A. Yes.
- Q How many, roughly ? A. Perhaps thirty.
- Q What were they doing ? A. They threw stones at the Allied airmen.
- Q Were they excited ? A. Yes.
- Q You say that then the British airmen were driven on to the bridge. What happened when they got on to the bridge ? A. They were driven to the middle of the bridge and then they were beaten.
- Q Who beat them, the soldiers or the civilians ? A. The civilians.
- Q What were the three German soldiers doing while the civilians were beating the airmen ? A. I do not know; I did not notice that.
- Q How many of the civilians were actually beating or trying to beat the airmen ?
A. I do not know.
- Q How many roughly of the thirty people in the crowd were trying to get at the airmen to beat them ? A. Nearly all of them were throwing stones or beating them.

- Q Of the people who were beating or throwing stones, did you recognise any of them ? A. Yes, I recognised Mr. Braschoss.
- Q Do you know him well by sight ? A. Yes.
- Q Can you see him in Court now ? A. Yes.
- Q Which is he ? A. The third gentleman from the right (indicating the Accused Braschoss).
- Q You actually saw him beating the airmen ? A. Yes, with his stick.
- Q How long did the beating go on before anything else was done ?
A. I did not notice.
- Q What was the next thing you did notice ? A. Then I saw them being thrown over the bridge.
- Q Were they thrown over one at a time ? A. One after the other.
- Q How many civilians did it take to throw each one over ?
A. I did not notice.
- Q Did you notice who any of the civilians who threw them over were ? A. No.
- Q Which side of the bridge were each of the airmen thrown over ?
A. Two were thrown over from my side of the bridge.
- Q Which side is that ? A. I was standing at the right-hand side of the bridge and two were thrown over the right-hand side.
- Q Did the third one try to get away at all ? A. Yes.
- Q What happened to him ? A. There were shots.
- Q Who fired the shots ? A. A soldier.
- Q One of the three escorts ? A. Yes.
- Q Did he hit the airman ? A. I do not know.
- Q What happened to the airman then ? Was he caught ?
A. He was thrown over the bridge but I do not know by whom.
- Q Which side of the bridge was he thrown over ? A. The left side of the bridge.
- Q After the third one had been thrown over were any further shots fired ?
A. Two of them were already lying in the stream, and after that shots were fired.
- Q From the bridge ? A. Yes.
- Q Did you then go down underneath the bridge at all ? A. No.
- Q Did you see any civilians or soldiers go down under the bridge ? A. Yes.
- Q Did you see anyone touching the bodies of any of the airmen ?
A. No, I did not notice that; I only saw the airmen being carried to the stream.
- Q Do you know if anything was taken from the bodies of the airmen ? A. Yes.
- Q What was that ? A. The airman was undressed and he ----
- Q When you say he was undressed, do you mean that you saw some people taking his clothes off ? A. Yes. He could only keep on his trousers.
- Q Did they take anything away and hand anything round ? A. Yes.

Q What was that ? A. I saw them taking the sweets out of his pockets.

Q Did you recognise any of the people who were undressing the airmen ?
A. I only saw Mr. Braschoss standing there, but whether he took anything I could not say.

Q How close was he to the body when you saw him ?
A. He was standing just in front of the body.

Q After the body had been undressed what was done with it ?
A. The body was thrown into the stream.

Q Did you see who threw it in ? A. Yes.

Q Who ? A. I think it was a soldier, but I am not sure of it.

Cross-examined by Major STONE.

Q How close were you to the civilians who were beating the airmen ?
A. I was standing at the beginning of the bridge.

Q How far would that be - five or 10 metres ? A. About 15 metres.

Q Did you recognise anybody else besides Herr Braschoss among the people you saw beating the airmen ? A. I did not notice anybody else.

Q Do you know Herr Kaufer ? A. Yes.

Q Did you see Herr Kaufer there ? A. No.

Q Can you see Herr Kaufer in this Court ? A. Yes.

Q Where ? A. The fourth gentleman from the right (indicating the Accused Kaufer).

Q Do you know Herr Hartung ? A. Yes.

Q Did you see Herr Hartung on the bridge ? A. No.

Q Can you see Herr Hartung in this Court ? A. Yes.

Q Where ? A. The third gentleman from the left (indicating the Accused Hartung).

Q Did you notice anybody that you knew among the civilians throwing the airmen over the bridge ? A. No.

Q Did you see Herr Braschoss take any part in throwing them over the bridge ?
A. No.

Q Or Herr Kaufer ? A. No.

Q Or Herr Hartung ? A. No.

Q Could you remember any of the three German soldiers who were on the bridge if you saw them again ? A. I do not know for sure, but it is possible.

Q Can you see any one of those soldiers in Court now ? A. Yes.

Q Which one is that ? A. The second gentleman from the right (indicating the Accused Koenen).

Q What, if anything, did you see him doing on the bridge ?
A. I only saw him unfolding the map.

Q Did he make any attempt to prevent the civilians maltreating the airmen or throwing them over the bridge ? A. I do not know.

Q Do you know if he was the soldier who fired the shots ?
A. I do not remember.

Q Do you know if he was the soldier who threw the body into the stream ?
A. I do not know.

Re-examined by Major TAYLEUR.

Q Did you see the faces of all the people who were concerned in throwing the airmen over the bridge ? A. I saw all these people, but they have not stayed in my memory; I do not know.

Q So is it correct to say that your answer just now means that you cannot say whether any of these seven men were concerned in throwing them over or not ?
A. No.

Q I do not think that is quite as clear as it might be. Are you definitely saying that none of these seven had any hand in throwing the airmen over the bridge, or are you saying that you do not know whether they had or not ?
A. I did not see at all who threw the people over the bridge.

Q You said just now that you saw the second man from the right (the Accused Koenen) unfolding a map. What map was that ? A. It was a map of Germany.

Q Where had it come from ? A. He had a bag with him and he pulled out the map from this bag.

Q Where was he standing when he did that ? A. On the left side of the bridge.

Q Was he pointing his rifle all the time at the airmen, until they were thrown over the bridge ? A. I do not know.

Q Did you see him go down under the bridge at all ?
A. There were three German soldiers/^{but} who went down I could not say.

Q How many German soldiers did you see go down ? A. I do not know for sure, but at least there was one.

Q Do you know the ranks of the German soldiers ? Were they all the same rank or was there one in command ? A. There was an unteroffizier.

Q Was the one you saw under the bridge the unteroffizier or one of the others ?
A. I did not notice.

THE LEGAL MEMBER: When you first saw this matter happening were you inside your house ? A. Yes.

Q Did you later go down on to the end of the bridge ? A. Yes.

Q What was happening when you left the house ? A. When I was in the street I saw the three Allied airmen walking in the direction of the bridge.

Q So that you saw everything from the street from the time the Allied soldiers came on to the bridge ? A. Yes.

Q Did they come from the end of the bridge you were standing on or from the other end ? A. From my side of the bridge.

Q So they came past you ? A. The airmen were walking towards the bridge in front of me and I came later.

Q Were they far in front of you ? A. Perhaps about 30 metres.

Q There was quite a large crowd behind the airmen, was there ?
A. Yes, I told you before there were about 30 people there.

- Q Were you looking at the backs of the crowd then ? A. At first, yes.
- Q Why do you say "at first, yes" ? What happened to make the crowd turn round ?
A. The crowd did not turn about, but the airmen were stopped and they were beaten and then there was a riot and people were looking this way and that way.
- Q Did you follow with the crowd ? A. I stopped at the beginning of the bridge.
- Q Were there shouts coming from among the crowd ?
A. They were shouting, but what they shouted I did not hear.
- Q Were they shouting threats against the airmen ? A. I cannot remember.
- Q Think carefully. Do you remember anyone shouting: "Throw them off the bridge" ? A. No.
- Q Do you remember anybody shouting: "Shoot those dogs who killed our wives and children" ? A. No.
- Q You saw quite plainly that the airmen were being beaten ? A. Yes.
- Q Were they heavily beaten ? A. Yes.
- Q So much so that they might have been injured or could have been injured by the blows they received ? A. Yes.
- Q Do you think they might have had bones broken by the weight of the blows ?
A. I do not know; it could be so, but I am not certain.
- Q Do you know Braschoss quite well ? A. Yes.
- Q Did you watch what he was doing all the time ?
A. I saw Braschoss beating one of the airmen with his stick, and after that I turned about and I did not see anything else and I do not know how many times he hit one of the airmen.
- Q When the airmen were thrown over the bridge were they facing you, were they half-face or were their backs to you ? A. I cannot remember.
- Q Were you looking when these airmen were thrown over the bridge ?
A. I only saw the last one clearly.
- Q Were the soldiers who formed the escort between you and the airmen ? A. Yes.
- Q How far away were the German soldiers from you, approximately ?
A. I was in the immediate vicinity of the soldiers, standing close to them, and after a while I was at a larger distance from them.
- Q Were you close enough to see clearly that it was a map of Germany that one of the escort was looking at ? A. Yes.
- Q Did you at any time see any of the soldiers try to protect the airmen from the crowd ? A. No.
- Q Did they keep the airmen covered with their rifles ? A. I do not know.
- Q You were quite close to the soldiers, were you not ?
A. Yes, I was quite close to one of the soldiers.
- Q Did he have a rifle ? A. I do not remember.
- Q Was the soldier you were quite close to the soldier you have identified in Court today ? A. Yes.

THE PRESIDENT: Do you remember making a statement about this matter to an

officer last July ? A. Yes.

Q Do you remember saying in that statement: "I went somewhat further down towards the bridge up to the bank of the valley" ? A. I do not remember.

Q Do you remember saying this: "and saw the third Allied soldier lying underneath the bridge" ? A. I saw him lying there while I was standing on the bridge.

Q Do you remember saying: "At least one of the German soldiers with Braschoss were busy undressing and robbing the airman" ? A. I only saw Braschoss standing there, but whether he did anything or took anything ----

Q That was not the question I asked. The question I asked was: do you remember saying that in the statement that you made last July ?
A. I only said that Mr. Braschoss stood there and whether he took anything or did anything I could not say.

Q Did you sign that statement after you had made it ? A. Yes.

Q Did you read it ? A. Yes.

Q Do you know this bridge quite well ? A. Yes.

Q If you are standing on the bridge looking down at the water in the stream how far down is the water from you ? A. 10 metres.

Q If you are standing on the bridge looking down at the railway lines how far down from you are the railway lines ? A. Perhaps five metres.

THE PRESIDENT: Do you wish to ask anything arising out of that ?

MAJOR TAYLEUR: No.

MAJOR STONE: No.

(The witness withdraws.)

ELISABETH SCHMIDT-PFEIFFER is called in, and, having been duly sworn, is examined by Major TAYLEUR through the interpreter as follows :-

Q Is your name Elisabeth Schmidt-Pfeiffer ? A. Yes.

Q What is your address ? A. 22 Bingerstrasse, Essen-West.

Q How old are you ? A. 31.

Q Do you remember the morning of the 13th December last year ? A. Yes.

Q Were you out for a walk that morning ? A. I went to see if I could get some water or some bread after the attack.

Q Had you a friend with you ? A. I had my neighbour with me.

Q What was her name ? A. Mrs. Lipsinski.

Q While you were out with Frau Lipsinski did you see a crowd coming from the direction of Kruppstrasse ? A. We were walking down Mulheimerstrasse and we saw the crowd coming up Mulheimerstrasse.

Q What did the crowd consist of ? A. Three foreign airmen, and behind the airmen was a German soldier.

Q Were there many civilians there ? A. Very many.

Q Was there anyone behind the civilians ? A. What do you mean ?

Q Was anyone else walking apart from the civilians, the escort and the airman who was concerned with the crowd? A. Near Burgostrasse there was a hauptmann and a feldwebel.

THE LEGAL MEMBER: A hauptmann is the equivalent to a captain, is it?

MAJOR TAYLEUR: Yes.

THE LEGAL MEMBER: What is a feldwebel?

MAJOR TAYLEUR: A serjeant.

MAJOR STONE: I think the man about whom she is speaking was a hauptfeldwebel, roughly equivalent to an RSM.

THE LEGAL MEMBER: Interpreter, would you translate them to the equivalent ranks.

THE INTERPRETER: Yes.

THE LEGAL MEMBER: What is the equivalent of an unteroffizier?

MAJOR TAYLEUR: That is a corporal or a senior lance-corporal. (To the witness): You say that you saw a captain and a serjeant walking along behind; is that correct? A. The hauptmann and the feldwebel came out of school, and then he told one of the escorting soldiers to come back.

Q Did you recognise the hauptmann? A. I would not be able to recognise him because I had not seen him before.

Q Can you see him in Court today? A. No, I would not be able to recognise him.

Q Will the Accused stand up. (All the Accused stand up in the dock.) Will you go up and look at each one of those men closely and then tell me whether you can recognise him? (The witness walks over to the dock.) A. I know for sure I would not recognise him.

Q How do you know you are sure? Will you do what you are told and look at each one individually and carefully and then tell me? (The witness scrutinises the Accused.) A. No.

Q Will you do what I told you to do, stand in front of each one of those Accused individually and look at them carefully and then tell me? (The witness scrutinises the Accused.) A. No.

Q Have you ever heard of a man named Hauptmann Heyer? A. Yes.

Q In what circumstances have you heard of him? A. Before that time or at the time the affair took place?

Q At any time? A. I only heard the name "Heyer" on the morning of the affair.

Q What did you hear about him on the morning of the affair? A. I heard Hauptmann Heyer telling the civilians ----

Q You said you heard Hauptmann Heyer; how did you know it was Hauptmann Heyer? A. I heard that afterwards on the way home.

Q Who was the person that you later heard to be Hauptmann Heyer? A. I would not be able to say.

Q Pull yourself together and listen to the question.

THE LEGAL MEMBER: Major Tayleur, I am inclined to think that you will probably get the answers to your questions in a roundabout way if we hear all she says in reply and you then repeat the question if the answer does not satisfy you.

MAJOR TAYLEUR: I do not know what she was saying in reply.

- Q Was that after the investigation of this case had started by the British authorities ? A. No.
- Q What did he say to you about the case ? A. That he had not done anything, he followed the crowd but he did not do a thing.
- Q Had you in any way made it known that you knew about what he had done ? A. Yes.

Cross-examined by Major STONE.

- Q Do you think that the airman who Herr Sambol hit was hurt by the blows he received ? A. No.
- Q Could he walk perfectly well afterwards ? A. Yes.
- Q And after the blows had been delivered did Herr Sambol go home with you ? A. Yes.

THE LEGAL MEMBER: When you saw the crowd of people around the airmen were they being ill-treated generally by the crowd ?
A. No, I did not recognise anybody, I only saw Sambol.

- Q I am not asking you whether you recognised anybody in the crowd. Was there a crowd of people there ? A. There were several people standing round the airmen and there were also people coming down on their bikes and they got off their bikes and mixed with the crowd.
- Q Did you see anyone other than Sambol hit any of the airmen ? A. No.
- Q Sambol was the only one that hit any of the airmen ?
A. I did not see anybody else.
- Q What is the name of the young woman to whom Sambol made the remark you have mentioned ? A. I do not know.
- Q Is she a friend of yours ? A. No.
- Q Did you walk away from the crowd or did you stand still and let the crowd leave you ? A. We met the crowd and the crowd passed us and then we turned round and after that we went straight home.

THE PRESIDENT: Do you wish to ask any questions arising out of that ?

MAJOR TAYLEUR: No.

MAJOR STONE: No.

(The witness withdraws.)

(At 1130 hours the Court is closed.

At 1140 hours the Court re-opens.)

(The Accused are again brought before the Court.)

THE PRESIDENT: Will you tell the Accused that it is now proposed to employ Serjeant Klyn as an independent interpreter and ask them if they have any objection to him being so employed.

(All the Accused reply that they have no objection.)

(Serjeant P. Klyn, Interpreters Pool, is duly sworn as interpreter.)

ELISABETH SCHMIDT-PREIFFER is again called in and is further questioned by the Legal Member through the interpreter as follows :-

- Q You told us that a crowd of people collected round the three airmen ?

A. Yes, there was one on the left and the rest were on the right.

Q Do you know who the one on the left was ? A. Yes.

Q Who was it ? A. Herr Sambol, on the left-hand side of the tall airman.

Q Did you see anyone from the crowd on the right-hand side hit the airman ?
A. No.

THE PRESIDENT: Do you wish to ask any questions arising out of that ?

MAJOR TAYLEUR: No.

MAJOR STONE: No.

(The witness withdraws.)

Frau WILMA JANSEN is called in, and, having been duly sworn, is examined by Major TAYLEUR through the interpreter as follows :-

Q Is your name Frau Wilma Jansen ? A. Yes.

Q Do you live at No.2 Hoftengarten, Essen ? A. Yes.

Q How old are you ? A. 34.

Q Do you remember the morning of the 13th December 1944 ? A. Yes.

Q On that morning were you walking in Kruppstrasse near where it joins Mulheimerstrasse ? A. Yes.

Q Did you see a crowd passing the road junction just in front of you ?
A. I met the crowd near the barracks of the O.T.; that is a German organisation for building things.

Q What did the crowd consist of ? A. Many civilians and three soldiers.

Q What nationality were the soldiers ? A. Germans.

Q Were those Germans escorting anybody ? A. They were following the crowd with their rifles under their arms.

Q Who were the crowd following ? A. In front were the airmen.

Q What airmen ? A. Allied airmen.

Q How many ? A. Three.

Q Who were nearest to the three airmen, the crowd of civilians or the three German soldiers ? A. The civilians.

Q What were the civilians doing ? A. They beat the Allied airmen.

Q What did they beat them with ? A. They beat them with sticks and they were throwing stones at them, and one of them beat the airmen with his belt.

Q How many civilians altogether were attacking the airmen ?
A. I could not say for certain, but there would be about 20 or 25 of them.

Q Did you recognise any of the civilians who were striking the airmen ? A. Yes.

Q What was his name ? A. Hugo Boddenberg.

Q In what way was he attacking the airmen ? A. He had a belt in his hand.

Q How many times did you see him strike the airmen with a belt ? A. I could not say.

- Q More than once ? A. Yes.
- Q Was he hitting him hard with it ? A. Yes, he kept on beating.
- Q Do you think he hurt the airman ? A. No, I could not say for sure.
- Q Will the Accused stand up. (All the Accused stand up in the dock.) Can you see that man in Court now ? A. Yes.
- Q Which is he ? A. The second from the left (indicating the Accused Boddenberg).
- Q Do you know him well ? A. Yes.
- Q Where did the crowd go to ? A. In the direction of the cemetery.
- Q Where is the cemetery ? A. That is in the neighbourhood of Wickenburg.
- Q Do you know the Wickenburg bridge ? A. Yes.
- Q Did the crowd go in that direction ? A. Yes, in the direction of the bridge.
- Q Did you follow them ? A. Yes, I had to go in the same direction because that was on my way home.
- Q How far were you behind the crowd ? A. About four or five metres.
- Q Did Boddenberg go with the crowd as far as the bridge ? A. Yes.
- Q What happened to the airmen when they got to the bridge ?
A. They were thrown over the parapet.
- Q Did you see them thrown over ? A. Yes, in all that riot I saw them being thrown over.
- Q Who threw them over, civilians or soldiers ?
A. Boddenberg was in the centre of the crowd, but I did not see who threw them over.
- Q What were the three German soldiers doing while the airmen were being thrown over ? A. They were in the neighbourhood; they kept in the neighbourhood.
- Q Had they got their rifles pointing at the airmen ? A. Yes.
- Q Did you see any shots fired ? A. After the airmen were thrown into the water, yes.
- Q Who fired the shots ? A. A soldier with a glass eye; I did not notice the others.
- Q How many shots did he fire ? A. Several times, but I do not know how many times.
- Q Apart from Hugo Boddenberg do you know any of these seven men ? A. No.

Cross-examined by Major STONE.

- Q Was it on the bridge that Boddenberg was beating the airmen with his belt ?
A. Yes.
- Q Did you happen to notice with which end of his belt he was beating them ?
Was it with the buckle end or was it with the leather end ?
A. I do not know.
- Q You say that when the crowd threw the airmen over the bridge Boddenberg was in the centre of the crowd ? A. Yes.

Q Did you actually see him lay a hand on any of the airmen who were thrown over the bridge ? A. No, I did not see.

Q Can you remember anything of the three German soldiers that you saw, what they were like ? A. I only saw one of the infantrymen and I saw he had a glass eye.

Q Do you remember a little soldier among the three ? A. The little one was a Flak unteroffizier.

Q Do you remember a small infantry private soldier ? A. No, I do not remember.

Re-examined by Major TAYLEUR.

Q What type of belt was it that Boddenberg was using to beat the airman ? A. An Army belt, I think it was.

Q Leather ? A. Yes.

THE LEGAL MEMBER: Did Boddenberg say anything or shout anything in your hearing during this incident ? A. I told him to stop, and he said to me that it was their fault that we had had such a bad time the night before.

Q Did he say that in a loud voice ? A. No, only that I could hear.

Q This crowd formed rather a tumult, did it not ? A. Yes.

Q There was a good deal of shouting ? A. Yes.

Q Were the people very excited ? A. Yes.

Q Did you understand from what was going on what the crowd intended doing with the airmen ? A. I heard the Flak unteroffizier saying: "Throw them down the bridge".

Q Did the crowd seem to agree with that suggestion ? A. No.

Q Were you surprised to find that the airmen had been thrown over the bridge ? A. Yes, I was, and I told the Flak unteroffizier he should not do it.

Q I did not ask you whether you were shocked at seeing the airmen thrown over the bridge but whether you were in all the circumstances surprised ? I want to know whether the death of these airmen was the natural result of what was happening, not whether you were horrified ? A. I thought they would throw the airmen down after hearing the words of the Flak unteroffizier, but at first I did not expect the crowd to do it.

Q At what stage did the Flak serjeant shout out that remark which you have mentioned ? A. When they came to the beginning of the bridge.

Q Was Boddenberg among the crowd on the bridge ? A. Yes.

Q That was after the Flak serjeant's remark ? A. Yes.

Q Were there ringleaders in the crowd ? A. I do not know.

THE PRESIDENT: Do you wish to ask any questions arising out of that ?

MAJOR TAYLEUR: No.

MAJOR STONE: No.

(The witness withdraws.)

JOSEFINE RELING is called in, and, having been duly sworn, is examined by Major TAYLEUR through the interpreter as follows :-

Q Is your name Josefine Reling ? A. Yes.

Q Do you live at 14 Wienbuschstrasse, Essen-West ? A. Yes.

MAJOR TAYLEUR: This witness concerns one of the persons mentioned in the charge but who is not before the Court, and for the purpose of proving the charge as laid I have to get evidence on this; but as it is formal so far as my friend is concerned he has no objection to me leading on it. (To the witness): How old are you ? A. 31.

Q Do you remember the killing of three British prisoners of war on the 13th December last year ? A. I only heard about it from others but I was not here myself.

THE LEGAL MEMBER: Do you wish to refer to Article 8 ?

MAJOR TAYLEUR: No, not at this moment. (To the witness): Do you know a Frau Ganseure ? A. Yes.

Q Shortly after the incident did you visit her house and discuss the incident ? A. Yes.

Q Was Frau Ganseure's sister there as well ? A. Either her sister or her sister-in-law.

MAJOR TAYLEUR: I think I should refer to Article 8 in the sense that this is hearsay evidence.

THE LEGAL MEMBER: It naturally goes to weight although not to admissibility, and therefore I think it is useful that we should know on what grounds this evidence should be admitted.

MAJOR TAYLEUR: I am referring to Article 8 of the Regulations for the Trial of War Criminals, which says this: "If any witness is dead or is unable to attend or to give evidence or is, in the opinion of the Court, unable so to attend without undue delay, the Court may receive secondary evidence of statements made by or attributable to such witness."

THE LEGAL MEMBER: Can you satisfy us as to the condition in this case ?

MAJOR TAYLEUR: In this case I can assure you that every effort has been made to find this witness but she cannot be traced. (To the witness): Is this sister or sister-in-law of Frau Ganseure married to a man named Paul Tews ? A. I did not know at the time that his name was Tews.

Q Have you ascertained that since ? A. Only a short time ago I heard his name was Tews.

Q Did Frau Tews give her view of the rights or wrongs of the killing of Allied airmen ? A. Yes.

Q Did she think it was right or wrong that they should have been killed ? A. That it was right that they should have been killed.

Q Did she say whether or not her husband had taken any part in the killing ? A. Yes.

Q What did she say he had done ? A. He shot.

Q At who ? A. I do not know.

Q On the bridge ? A. I do not know whether it was on the bridge or under the bridge.

Q Did she say that he had taken part in the killing of the airmen ? A. Yes.

MAJOR STONE: No questions.

(The witness withdraws.)

MAJOR TAYLEUR: That concludes all the living witnesses whom I am calling. I have several affidavits which I shall proffer to the Court as the witnesses cannot be traced.

THE PRESIDENT: The Court have decided to view the bridge this afternoon. The Court will adjourn now and will re-assemble at the Wickenburg bridge at half past 2.

(At 1245 hours the Court is closed.)

(At 1430 hours the Court re-assembles on the Wickenburg bridge, the President, Members, Prosecutor, Defending Officer, the seven Accused, the interpreter and shorthand writer being present.)

Frau KLARA GIESE is recalled on her former oath and is questioned through the interpreter as follows :-

THE PRESIDENT: Frau Giese, will you point out the three places on the ground where you saw the three bodies lying.

(The witness goes down underneath the bridge and points out to the Court in the presence of the Accused a spot on the ground about 15 feet on the downstream side of the bridge.)

THE WITNESS: One of the men was lying here. The other two airmen were lying in the stream; one was dead and the other was still alive.

THE PRESIDENT: Where were the other two ?

(The witness proceeds along the bank of the stream to a spot about 200 yards on the downstream side of the bridge.)

THE WITNESS: I was standing near the house here and I saw it happen. Two were lying in the stream and going downstream in the water; one was still alive, one was dead.

THE PRESIDENT: Did you see any of these airmen thrown over the bridge ? A.No.

Q About what time was it that you saw these two and the other one ?
A. I do not know.

THE PRESIDENT: Major Tayleur, do you want to ask any questions ?

MAJOR TAYLEUR: Was the level of the stream then the same as it is now ?
A. About the same.

Q What sort of day was it, frosty or wet or what ?
A. It was about the same kind of day as today. (Fine and mild.)

THE PRESIDENT: Major Stone, do you wish to ask any questions ?

MAJOR STONE: No.

THE PRESIDENT: That terminates the view.

(At 1515 hours the Court re-assembles at the place of trial.)
(The Accused are again brought before the Court.)

MAJOR TAYLEUR: Two more of my witnesses have arrived, and with your permission I will now call them.

Frau HEDWIG LIPSINSKI is called in, and, having been duly sworn, is examined by Major TAYLEUR through the interpreter as follows :-

- Q Is your name Frau Hedwig Lipsinski ? A. Yes.
- Q What is your address ? A. Bingerstrasse 22, Essen-West.
- Q How old are you ? A. 45.
- Q Are you a friend of Frau Schmidt-Pfeiffer ? A. Not a friend, a neighbour.
- Q Were you in her company on the morning of the 13th December 1944 ? A. Yes.
- Q Were you near the entrance of the Mulheimerstrasse barracks ?
A. The Mulheimerstrasse school.
- Q Was that being used as a barracks at the time ? A. Yes.
- Q Did you see anyone coming out of there ? A. Yes.
- Q Who did you see ? A. I saw three airmen taken out.
- Q Who was escorting them ? A. A captain, a warrant officer and two soldiers.
- Q Were there any civilians there as well ? A. In the street.
- Q Do you know the name of the captain ? A. Yes.
- Q What was his name ? A. Heyer.
- Q Did you hear him say anything ? A. Yes.
- Q What did he say ? A. "Civilians, attack these airmen; they are not men but murderers."
- Q Did he say that in a loud voice or in an ordinary talking voice ? A. Loud.
- Q Did he say it once or more than once, or words to that effect ?
A. More than once.
- Q Did those words of his have any effect on the civilians ?
A. Not at first, but afterwards.
- Q What happened afterwards ? A. After that these civilians gathered and beat the airmen.
- Q This Captain Heyer, do you think you could recognise him again ?
A. I only saw him for the first time then.
- Q Do you think you would be able to recognise him now if you saw him ?
Will the Accused stand up. (All the Accused stand up in the dock.)
A. I think it is the first man.
- Q Will you point to the man you call the first.
A. The first one, with the bandage. (Indicating the Accused Heyer.)
- Q Did you notice what the three British airmen looked like ? A. Yes.
- Q Can you describe them at all, how they were dressed or what they looked like ?
A. The airman walking to the right was a tall man, and he could be about 22 or 23 years of age.
- Q And the next one ? A. The airman walking in the middle was slightly smaller and he could be about 30 to 32 years of age, and he had a bandage round his head.

- Q What was the third one ? A. The third airman was older; he could be about 36 or 37 years of age.
- Q How were they dressed ? A. They were very well dressed, but the airman walking between the other two had no shoes on.
- Q What colour uniform were they wearing ? A. They had leather jerkins.
- Q You say that you saw some of the civilians hitting these airmen. Did you recognise any of those civilians ? A. Yes.
- Q How many did you recognise ? A. One.
- Q What was his name ? A. Mr. Sambol.
- Q Do you see him in Court ? A. Yes.
- Q Which is he ? A. The last one.
- Q Will you come across to the dock and point to the one you identify as Sambol ? (The witness goes to the dock and indicates the Accused Sambol.)
- Q Do you know him well ? A. Yes.
- Q In what way did he strike the airman ? A. With his hands.
- Q Where did he strike the airman ? A. On his back.
- Q Did he hit him more than once ? A. Only once.
- Q Was it a hard blow ? A. No.
- Q Did Sambol say anything to you then or later about what he had done ? A. No.
- Q What did he do after he had struck the airman ? A. He went back with us home.
- Q Was it after Captain Heyer had called out these words that Sambol hit the airman ? A. Yes.
- Q While Sambol was hitting the one airman were other civilians hitting the others ? A. Yes.
- Q Was the crowd excited ? A. Yes.
- Q Did you follow the crowd when they moved off ? A. No.
- Q You say that there was a hauptfeldwebel with Hauptmann Heyer. Can you describe him at all ? A. Yes.
- Q What did he look like ? A. He was tall and heavy and he limped slightly.

MAJOR STONE: No questions.

THE LEGAL MEMBER: Do you know the Wickenburg bridge ? A. Yes.

Q How far is it from the barracks from which these airmen came out ?
A. About ten minutes walking.

Q You say that Sambol came back with you ? A. Yes.

Q How long did he stay with you ? A. Not long, because we live in the neighbourhood.

Q Did he go into your house with you ? A. To his own house.

Q When the civilians gathered round the airmen and started beating them were they excited ? A. Yes; some of them were all for beating them up and the others were against beating them.

Q Were the crowd shouting ? A. We did not stay there long enough to hear anything.

Q Was Sambol the first of the crowd to hit the airmen ?
A. I could not say for certain.

Q Was he one of the first ? A. Yes.

Q Do you know why he suddenly stopped hitting the airmen and decided to go away ? A. I do not know.

MAJOR STONE: The witness has just been asked if she knew why Sambol suddenly stopped beating the airman, but she said he only hit him once; he could hardly stop beating him after he had only hit him once. In my submission the fair question would be: why did he only hit him once ?

THE LEGAL MEMBER: I do not think that is quite the same thing, but I will ask her. (To the witness): Do you know why he only hit him once ? A. No.

THE PRESIDENT: Do you know where it was intended to take the airmen ?
A. We had heard they would be taken to Mulheim airport.

Q When they left the police barracks do you know where it was intended to take them at that time ? A. Yes, we heard it there.

Q How far away was the airport ? A. It is about an hour's walk.

Q Is the bridge in question on the road to the airport ? A. Yes.

(The witness withdraws.)

HEINRICH DIECKMANN is called in, and, having been duly sworn, is examined by Major TAYLEUR through the interpreter as follows :-

Q Is your name Heinrich Dieckmann ? A. Yes.

Q Do you live at 7 Deilbachbrücke, Essen-Kupferdren ? A. Yes.

Q How old are you ? A. 39.

Q On the 13th December 1944 were you in the Wehrmacht ? A. Yes.

Q Were you stationed at Mulheimerstrasse barracks ? A. In the Wickenburg school.

Q Was that being used as a barracks ? A. Yes.

Q Who was your commanding officer ? A. Captain Heyer.

Q Can you see him in Court today ? A. Yes, the first man with the bandage round his head (indicating the Accused Heyer).

Q Do you remember going into the canteen at the school on the morning of the 13th December ? A. Yes.

Q Who did you see in there ? A. Three English officers.

Q What were they doing when you went in ? A. They were sitting on a table, and the feldwebel told them not to sit on the table but take a chair.

Q What was the name of the serjeant ? A. Grosche.

Q Can you describe him ? A. He was rather fat, black hair and one of his legs was slightly crippled.

- Q Did anyone else come into the canteen while you were there ?
A. I only just looked in because I was going on leave.
- Q Did anyone else come in at that moment ? A. There were more people in the canteen, but I cannot remember because we had an attack the night before and I was a bit confused.
- Q Did Hauptmann Heyer come into the canteen at all ? A. While I was there he did not.
- Q Did you meet him somewhere else in the building ? A. In the basement.
- Q Did you hear him talking to anyone ? A. He only said a few words to the sergeant, but I did not hear what he said.
- Q Did you hear him say anything about what was going to happen to the airmen ?
A. No, I did not hear; at that moment I did not hear anything, but later on I heard something more.
- Q Did he make any remark to Grosche about what was going to happen to them ?
A. Yes.
- Q What did he say ? A. "Shoot them."
- Q Are those the exact words or as near as you can remember ?
A. Those are the words I can remember.

Cross-examined by Major STONE.

- Q Do you remember making a sworn statement about this happening ? A. Yes.
- Q Did you say in that statement that Hauptmann Heyer's words were: "The airmen will be shot" ? A. Yes.
- Q Will you tell us which were his words, the ones you have given today or the ones you gave in the sworn statement ? A. Those in the sworn statement.
- Q What did you understand the Hauptmann to mean by those words ?
A. I understood that they were to be taken away and then shot.
- Q Did you understand it as an order to the feldwebel to shoot them ?
A. Yes, it was an order.
- THE PRESIDENT: Were you living in the barracks prior to this event ?
A. Yes, I was with the Home Guard and I lived there.
- Q How long had the airmen been in the barracks ?
A. I am not certain but it could be from half an hour to threequarters of an hour.
- Q Do you know where they came from ? A. They came from the police office somewhat further on.
- Q Do you know who brought them from the police office to the barracks ?
A. No, I did not see them.
- Q Who took them over when they arrived at the barracks ? A. When I arrived there they were already in the canteen.
- Q Had there been a raid the previous night ? A. Yes.
- Q What time did it finish ? A. Shortly after half past 10; it could perhaps be a quarter to 11.
- Q Had there or had there not been very much damage in the vicinity of the police barracks ? A. I had not been there so I could not say.

Q Where was the raid the night before ? A. Essen-Mulheim and Essen-West.

Q Were you not there the night before at all ? Where were you ? A. At home.

Q Where is that ? A. Essen-Kupferdren.

Q How far away is that from the police barracks ? A. About five minutes walk from the police office at Kupferdren.

Q How far away do you live from the police barracks at Mulheimerstrasse where the airmen were taken the following morning ? A. About 2½ hours walk.

THE LEGAL MEMBER: Were you in the barracks when the airmen left ? A. Yes.

Q Did they leave under escort ? A. There was an unteroffizier, a serjeant and a private escorting them.

Q Do you know the names of the escort ? A. Nelges or Melges; Koenen or Konen or Koonen.

Q Do you know the third ? A. I did not see any more escorting them because I had to go out to the office.

Q Do you see any of the escort here today ? A. The serjeant sitting beside Heyer (indicating the Accused Koenen).

Q Is he one of the escort whose names you have given us ? A. Nelges.

Q Do you know the name of the man sitting next to Heyer ? Is that the man you referred to as Nelges ? A. Yes.

THE PRESIDENT: On the morning of the 13th December was there any fresh damage done or not as a result of the raid the night before round about the neighbourhood of where the police barracks is ? A. Where the tramway runs there was quite a lot of damage; you had to go on foot.

Q How far away was that from the police barracks in the school ? Was there any fresh damage done in that area of the police barracks as a result of the raid on the night of the 12th December ? A. I do not know much about it, but I do know there was quite a lot of damage on the way from the main station to the Mulheimerstrasse and the school which we used as our billet.

MAJOR TAYLEUR: I think there is a misunderstanding there. The place where he was was not the police barracks; that is further up the road. The place in the Mulheimerstrasse was a school which was used as barracks by this Landeschutz battalion.

THE PRESIDENT: I thought that normally he lived and worked in that place.

MAJOR TAYLEUR: No, he lives at Kupferdren, which is 2½ hours walk away, and he comes each day to these barracks in Mulheimerstrasse.

MAJOR STONE: He is Home Guard, and like our Home Guard he does not necessarily live in the barracks.

THE PRESIDENT: He comes there every day ?

MAJOR STONE: Yes.

THE PRESIDENT: Do you know whether there was any fresh damage in the area close to and round about this police barracks where the airmen had been kept on the night of the 12th ? A. A few houses were damaged, but the principal damage was done in the direction of Bredenheim.

(The witness withdraws.)

MAJOR TAYLEUR: That is my last living witness. I now wish to proffer two affidavits; in each case the witness is not available. The first affidavit is by Edmund Hartmann of 5 Maacklenbeckswag, Essen-West, oven-builder, 37 years of age, who having been duly sworn states: "On the morning of the 13th December 1944 I was repairing the roof of my house", etc. (reading the affidavit).

(Affidavit by Edmund Hartmann is marked "A", signed by the President and attached to the proceedings.)

THE PRESIDENT: Major Stone, do you wish this to be translated into German for the benefit of the Accused, or have they all had a copy and read it?

MAJOR STONE: They have all had a copy.

THE PRESIDENT: Then it is not necessary to translate it?

MAJOR STONE: No.

THE PRESIDENT: Interpreter, will you ask each of the Accused in turn if he wishes this to be translated into German or is he well aware of the contents of this document?

THE INTERPRETER: Kaufer says it would be much better if Edmund Hartmann came down here himself.

THE PRESIDENT: I was not asking him that question. I am asking them if they are or are not aware of the contents of that document.

THE INTERPRETER: They are quite satisfied.

THE PRESIDENT: Each of the Accused says that he does not wish it translated into German and they are aware of what the document contains?

THE INTERPRETER: That is right.

THE LEGAL MEMBER: What has happened to Edmund Hartmann?

MAJOR TAYLEUR: Edmund Hartmann is the son of Agness Hartmann, who is a witness in this case who has already given evidence. I am informed he has left Essen and is believed to be in the Munster district, but efforts to trace him have been unsuccessful.

THE LEGAL MEMBER: I take it every effort has been made to trace him?

MAJOR TAYLEUR: I have had Military Government officials looking for him since Sunday and each day I have been asking for reports of any success, but up to now it has been completely hopeless.

There is only one other statement I want to put in, and that is a statement made under caution by the Accused Koenen to Captain Waddington. Captain Waddington is now in the UK, having been demobilised from the Army, and it has not been practicable to bring him here for this trial. The document is signed by the Accused Koenen and by Captain Waddington. It reads as follows: "I, Peter Koenen, aged 35 years", etc. (reading the statement).

(Statement by the Accused Koenen is marked "B", signed by the President and attached to the proceedings.)

THE PRESIDENT: Peter Koenen, the document you have just heard read was the statement made by you on the 24th July last. Do you wish it read to you now in German or are you quite satisfied?

THE ACCUSED KOENEN: I agree that it has been read to me in English and that is quite sufficient.

THE PRESIDENT: You do not want it read in German ?

THE ACCUSED KOENEN: I do not want it read in German.

THE PRESIDENT: Major Stone, you are quite satisfied, are you ?

MAJOR STONE: Quite satisfied.

THE PRESIDENT: Major Stone, as this statement does mention the Accused Heyer it may be that you would like him to know what is contained in it.

MAJOR STONE: Yes, he could be asked. He has in fact seen it and read it in German.

THE PRESIDENT: Heyer, have you seen a copy in German of the statement made by Koenen on the 24th July last ?

THE ACCUSED HEYER: Yes.

THE PRESIDENT: That is the statement which has just been read in English. Do you wish it to be read to you in German or not ?

THE ACCUSED HEYER: No, I have read it for myself.

MAJOR TAYLEUR: That completes the case for the Prosecution.

(At 1630 hours the Court is closed.

At 1640 hours the Court re-opens.)

(The Accused are again brought before the Court.)

MAJOR STONE: Sir, I wish to apply to you to dismiss the case against the Accused Erich Sambol. The only evidence which has been offered against this Accused has been that of Frau Schmidt and of Frau Lipsinski. Frau Schmidt has said that Sambol struck one airman several times with his hand, that the airman was not badly hurt and that he walked away perfectly healthy apparently after being struck. Frau Lipsinski has said that Sambol hit the airman once with his hand on his back and did not hit him hard, and that having hit the airman once, or a number of times according to Frau Schmidt, both witnesses say that Sambol went away to his house with them.

As far as Sambol is concerned, the incident took place outside the barracks from which the airmen had just been brought. We have been told that that barracks is ten minutes walk from the bridge. It is reasonable to assume, I think, that on the day in question the interval between their leaving the barracks and their being thrown over the bridge would have been greater than ten minutes, partly because it would probably take longer for them to walk down there and also we know that an interval of time elapsed between the arrival of the airmen on the bridge and their being thrown over. It is agreed by all the witnesses that when the airmen reached the bridge they were all alive, conscious and apparently as healthy as they had been at first. One of the airmen was wounded and was wearing a bandage, but he is admitted to have been wounded and to have been wearing a bandage at the first moment we hear about him.

I submit that the evidence against Sambol cannot conceivably be said to be evidence of him being concerned in the killing of an airman. It has been said by those two witnesses that he struck one of the airmen - though if you do not allow this application and I put Sambol in the box he will deny that - but with his hand only on his shoulders and back only and not on the head, and that the blows struck, if there were more than one, were not hard blows and appeared to have no effect whatever on the airman. I ask you to dismiss the case on the ground that that is no evidence whatever of Sambol being concerned in the ultimate deaths of these airmen.

THE PRESIDENT: Do you wish to resist this submission, Major Tayleur ?

MAJOR TAYLEUR: Yes, I do. In my submission if somebody puts a match to a fairly long fuse which leads to a barrel of gunpowder and then walks off and the fuse burns and eventually the gunpowder explodes and people are killed, that person, although he is not present at the explosion, is responsible for the explosion and responsible for any deaths that result. In my submission that is precisely what has happened in this case.

You remember the evidence that Hauptmann Heyer came out of the barracks and called out to the civilians that they should kill these airmen who had been responsible for the deaths of their wives and children and that thereupon the civilians reacted by attacking the airmen. The evidence we have regarding Sambol is that one witness says that he was the first person to strike and the other says that he was one of the first.

In my submission you have here an incitement to murder from Hauptmann Heyer, and the first blow, or if not the first one of the first, is struck by Sambol. That was the act which incited the crowd, which as it were put the match to this inflammable material, a crowd of people who were enraged at the damage done to Essen, and were ready to burst into flame if it was given the slightest incentive. That incentive came from a blow by Sambol, and the fire ran down Mulheimerstrasse, getting fiercer and fiercer, until the final explosion came on the bridge.

In my submission although the blows in themselves were not ones which were in any way mortal or deadly in their physical effect, they were a very definite link in this whole incident, which started with incitement, went from light blows to more serious blows and ended up in the death of these three men. I say that the whole incident is so bound up together from the moment they came out of the barracks and the mob was incited by Heyer until the moment when three dead bodies were floating down that stream that anyone who was concerned in any way is concerned in the killing of these three men.

THE PRESIDENT: Do you wish to reply, Major Stone?

MAJOR STONE: No.

THE PRESIDENT: The Court will close to consider the submission made by the Defending Officer and will then adjourn until 10.15 tomorrow morning.

(At 1645 hours the Court closes and is adjourned until 1015 hours tomorrow, Thursday, 20th December, 1945.)

(For third, fourth and fifth days see separate transcript.)